

PARKER, BUNT & AINSWORTH, P.C.

100 East Ferguson, Suite 1114

Tyler, Texas 75702

903.531.3535 Phone

903.533.9687 Fax

ROBERT M. PARKER

Retired Judge

U.S. Court of Appeals for the
Fifth Circuit

Former Judge

U.S. District Court for the
Eastern District of Texas

rparker@pbatyler.com

ROBERT C. BUNT

rcbunt@pbatyler.com

CHARLES AINSWORTH

charley@pbatyler.com

ANDREW T. GORHAM

tgorham@pbatyler.com

April 18, 2007

Honorable David Folsom
United States District Court

Sent via facsimile: 903.794.1224

Dear Judge Folsom:

I write regarding the April 26, 2007, *Markman* hearing in Case No. 2:05-cv-00294, *DataTreasury Corp. v. CitiBank* (the "Citi Case") currently pending before you. On behalf of Bank of America and other defendants in related Case No.06-CV-00072, *Data Treasury v. Wells Fargo* (the "Wells Fargo Case"), I respectfully suggest that the Court consider moving the current April hearing to the September 24, 2007 hearing date currently scheduled in the Wells Fargo matter. I believe doing so would make efficient use of all parties' time, as well as the Court's time and resources.

The same four patents are asserted in both the Wells Fargo and Citi Cases. Thus, the issues presented in claim construction will be similar. Having all parties in the two cases fully present all claim construction matters to the Court in a single proceeding would save considerable time for the Court and all parties. A consolidated hearing presents the opportunity for the Court to prepare for, consider and decide in a single proceeding all issues in need of a ruling, which

should prove the most efficient use of the Court's preparation and hearing time, while insuring a full and fair opportunity for all parties to present their positions on a "clean slate."

Accordingly, I respectfully request the Court consider the advantages offered in continuing the Citi *Markman* hearing from its April 26, 2007 setting and consolidating it, for claim construction purposes only, with the Wells Fargo *Markman* hearing on September 24, 2007 or some other date compatible with the Court's schedule.

Sincerely yours,



Robert M. Parker

cc: Counsel of Record